

SENSITIVE

2016 NOV -7 PM 5: 05 **FEDERAL ELECTION COMMISSION**
999 E Street, N.W.
Washington, D.C. 20463

2016 NOV -8 AM 2: 04

FIRST GENERAL COUNSEL'S REPORT

CELA

MUR: 7057
DATE COMPLAINT FILED: 5/10/2016
DATES OF NOTIFICATION: 5/18/2016;
7/18/2016
DATE OF LAST RESPONSE: 7/18/2016
DATE ACTIVATED: 8/8/2016

EXPIRATION OF SOL: 1/5/2017 -
12/4/2020
ELECTION CYCLE: 2008 to 2016

COMPLAINANT:

Chia-Chi Teng

RESPONDENT(S):

Jason Chaffetz

Friends of Jason Chaffetz and Bruce
Garfield in his official capacity as
Treasurer

Beehive PAC (f/k/a Budgethawks.com)¹ and
Bruce Garfield in his official capacity as
treasurer

Beehive Victory Fund and Bruce Garfield in
his official capacity as treasurer

Rock Chalk Media LLC and Alex Chaffetz
in his official capacity as registered agent

Alex Chaffetz

RELEVANT STATUTE(S):

52 U.S.C. § 30114(b)
52 U.S.C. § 30104(b)
52 U.S.C. § 30101
11 C.F.R. § 113.1(g)

¹ The multi-candidate committee that was known as Budgethawks.com amended its Committee name to Beehive PAC on August 1, 2016. See *Beehive PAC Statement of Organization* (as amended Aug. 1, 2016).

11 C.F.R. § 104.3(b)(4)(i)
11 C.F.R. § 104.9(a)
11 C.F.R. § 100.52(d)(1)

INTERNAL REPORTS CHECKED: Disclosure Reports
FEDERAL AGENCIES CHECKED: None.

I. INTRODUCTION

The Complaint alleges that Representative Jason Chaffetz ("Chaffetz") violated the Federal Election Act of 1971, as amended (the "Act") and Commission regulations by converting campaign funds to personal use. The Complaint also alleges that Friends of Jason Chaffetz (the "Committee") and Chaffetz's leadership PAC, Beehive PAC f/k/a Budgethawks.com (the "Leadership PAC"), failed to itemize reimbursements made to Chaffetz and his wife, and that the Committee failed to report an expenditure made by the Leadership PAC to a media group owned and operated by Chaffetz's brother, Alex Chaffetz, as an in-kind contribution. Based on the available information, we recommend that the Commission dismiss with a letter of caution the allegations pertaining to Chaffetz's use of a Committee-owned vehicle, and find no reason to believe that Respondents violated the Act in connection with the remaining allegations.

II. FACTUAL SUMMARY

Jason Chaffetz is the Representative of Utah's third congressional district. He has served as a Member of the House of Representatives since 2008. The Complaint alleges that during that time, Chaffetz and his wife impermissibly converted campaign funds to personal use by:

- Using a Committee-owned vehicle for personal use without reimbursing the Committee.² In support, the Complaint cites a maintenance expense reported by the

² Our review of Committee disclosure reports reveals that the Committee owns two vehicles, one labeled a "campaign trailer," each purchased for approximately \$35,000. See Friends of Jason Chaffetz Pre-Convention Report (April 2010) (first Committee vehicle); Oct. Quarterly Report (Oct. 2011) (trailer).

Committee that aligned with an "official visit" to Arizona on March 20, 2013; a reimbursement to Chaffetz for refueling the vehicle in a noted resort town in California on January 5, 2012; and a newspaper article that questioned whether Chaffetz used the vehicle for his regular 40-mile roundtrip commute between his home and district office.³

- Using campaign funds to host a Thanksgiving dinner at the St. Regis Hotel.⁴ The Complaint claims that the Committee reported an expenditure to the hotel on Thanksgiving Day 2014, and that Chaffetz posted a photo of a turkey in an oven that appears similar to the ovens at the St. Regis.
- Receiving reimbursements for hotel and childcare costs incurred during family visits to Washington, D.C.⁵
- Receiving Delta Sky Miles on Chaffetz's personal credit card for purchases that were later reimbursed by the Committee.⁶

The Response states that these expenses were related to campaign events or official business, and denies any conversion of campaign funds to personal use.

The Complaint further claims that unitemized reimbursements to Chaffetz and his spouse indicate reporting violations. It states that since 2007, the Committee has reimbursed \$470,000 to the Chaffetzes, \$68,000 of which was not itemized. Further, the Leadership PAC has reimbursed \$43,000 to the Chaffetzes, \$9,000 of which was not itemized.⁷ The Response states that the Committee and Leadership PAC itemized reimbursements in accordance with

³ Compl. at § 2 (May 10, 2016); Matt Canham, *GOP challenger hits Jason Chaffetz on his campaign spending*, SALT LAKE TRIBUNE, April 14, 2016, available at <http://www.sltrib.com/news/3779575-155/gop-challenger-hits-jason-chaffetz-on>.

⁴ Compl. at § 4.

⁵ Chaffetz does not maintain a residence in Washington, D.C. As a result, when his family visits, they stay in a hotel. *Id.*; Canham, *supra* note 3. The Complaint alleges that Chaffetz received \$15,853.72 in hotel reimbursements between 2008 and 2016, and \$5,450 in child care reimbursements between 2009 and 2013. Compl. at § 4., Ex. B. Of the Complaint's list of 28 hotel reimbursements, 14 have expired under the statute of limitations, representing charges totaling \$6,621.77.

⁶ Compl. at § 5.

⁷ *Id.* at § 3.

Commission regulations, and that any unitemized reimbursements were below the threshold for which itemization is required.⁸

Finally, the Complainant alleges that the Leadership PAC made an impermissible \$1,690 expenditure to Rock Chalk Media, an LLC owned by Alex Chaffetz, Jason Chaffetz's brother, which the Committee failed to report as an in-kind contribution.⁹ The Response asserts that the disbursement was for services associated with Chaffetz's October 2015 campaign for Speaker of the House of Representatives, and did not constitute an in-kind contribution to the Chaffetz Committee.¹⁰

III. LEGAL ANALYSIS

A. Personal Use

A candidate and his or her authorized committee may not convert campaign funds to the personal use of the candidate or any other person.¹¹ Commission regulations define personal use as "any use of funds in a campaign account of a present or former candidate to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate's campaign or duties as a Federal officeholder."¹² Several enumerated activities constitute personal use *per se*.¹³ If an expense is not listed as *per se* personal, the Commission must consider, on a case-by-case basis, whether that expense would exist irrespective of a candidate's

⁸ Resp. at 2 (July 18, 2016).

⁹ Compl. at § 1.

¹⁰ Resp. at 1.

¹¹ 52 U.S.C. § 30114(b); 11 C.F.R. § 113.1(g).

¹² 11 C.F.R. § 113.1(g).

¹³ 11 C.F.R. § 113.1(g)(1)(i).

1 campaign or official duties.¹⁴ Certain expenses made in connection with official duties are not
2 considered personal use.¹⁵

3 **a. Use of a Committee Vehicle**

4 Vehicle expenses are analyzed on a case-by-case basis.¹⁶ Vehicle expenses that relate to a
5 Federal officeholder's official activities are excluded from the definition of personal use.¹⁷ If a
6 vehicle is used for both campaign and official activities, as well as personal activities beyond *de*
7 *minimis* use, the portion of the vehicle expenses associated with personal activities is considered
8 personal use unless the user reimburses the campaign within thirty days.¹⁸ A committee must
9 document personal use of a committee-owned vehicle. The Commission has stated that a
10 regularly updated mileage log would satisfy the regulations' record-keeping requirements.¹⁹

11 Respondents assert that the use of the vehicle in Arizona was for permissible campaign
12 and official purposes. Respondents identify several campaign events that occurred during that
13 trip, and contend that even if use of the vehicle were for official purposes, that would be
14 permissible under the Act and regulations.²⁰ They allege that the record contains no facts that
15 suggest any instance of personal use during the Arizona trip. We have no facts to the contrary.

¹⁴ 11 C.F.R. § 113.1(g)(1)(ii).

¹⁵ 11 C.F.R. § 113.1(g)(5).

¹⁶ 11 C.F.R. § 113.1(g)(1)(ii)(D).

¹⁷ *Id.*; see also Advisory Op. 2001-03 (Meeks) (March 12, 2001) ("AO 2001-03") at note 5 (stating that an elected Member of Congress need not reimburse the Committee for vehicle use for "representational duties").

¹⁸ 11 C.F.R. § 113.1(g)(1)(ii)(D); see also AO 2001-03 (noting that personal use of the committee vehicle amounting to 5% of total use would be *de minimis*, though not providing a bright line for *de minimis* use).

¹⁹ AO 2001-03 at 3; see also 11 C.F.R. § 104.14(b).

²⁰ Resp. at 2.

1 However, Respondents do not address the Complainant's assertion that the California trip
2 was personal, or that Chaffetz used the Committee vehicle for his regular commute, beyond a
3 blanket denial of the Complaint's assertions. In the newspaper article cited by the Complaint,
4 Chaffetz responded to the allegation regarding his daily commute by stating, "I don't know if I
5 ever just drive to the office and not do something political along the way."²¹ This statement
6 implies that Chaffetz used the campaign vehicle for daily commuting; thus, there is a basis on
7 which to infer that Chaffetz at least occasionally used the vehicle for personal purposes. The
8 record contains no information indicating whether Chaffetz maintains a log tracking any personal
9 use to record and provide reimbursement for any instance in which his personal use might
10 amount to more than *de minimis* activity. Even so, we have no information regarding any
11 specific instances of non-*de minimis* personal use stemming from Chaffetz's daily commute.

12 Likewise, we lack any information regarding the nature of the California trip. The
13 Complaint's allegation is based on the lack of evidence of any official or campaign activity by
14 Chaffetz in California on those dates. The record, however, contains no information to establish
15 that the trip was exclusively personal. Given the vagueness of the evidence, the impending
16 statute of limitations as to some of the activity, and the possibility that any personal use may have
17 been *de minimis*, we conclude that an investigation would not be an efficient use of the
18 Commission's resources. Accordingly, we recommend that the Commission dismiss the
19 allegation that Chaffetz violated 52 U.S.C. § 30114(b) or 11 C.F.R. § 113.1(g) by using a

²¹ Compl. at § 2; Canham, *supra* note 3.

1 Committee-owned vehicle for personal use, and issue a letter of caution regarding Chaffetz's
2 apparent failure to maintain a mileage log documenting personal use of the vehicle.²²

3 **b. Payment to the St. Regis Hotel**

4 The Response explains that the expenditure to the St. Regis was not for a personal
5 purpose, but was prepayment for a Committee fundraiser. Moreover, the Response asserts that
6 Chaffetz was not even at the hotel over the Thanksgiving holiday.²³ We have no information to
7 the contrary. Accordingly, we recommend that the Commission find no reason to believe that
8 Chaffetz violated 52 U.S.C. § 30114(b) or 11 C.F.R. § 113.1(g) by converting Committee funds
9 to personal use regarding this payment.

10 **c. Child Care Costs**

11 Childcare expenses are evaluated on a case-by-case basis.²⁴ In Advisory Opinion
12 1995-42, the Commission clarified that when a candidate incurs childcare expenses as a direct
13 result of campaign activity, *i.e.*, when both the candidate and his or her spouse are needed at a
14 campaign event, childcare costs will not be deemed personal use.²⁵ Respondents claim that the
15 Chaffetzes seek reimbursement only when expenses are incurred for campaign purposes.²⁶
16 Because we have no information indicating otherwise, we recommend that the Commission find

²² See *Heckler v. Chaney*, 470 U.S. 821 (1985); Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 51 (March 16, 2007) at 12546.

²³ Resp. at 3.

²⁴ 11 C.F.R. § 113.1(g)(1)(ii).

²⁵ Advisory Op. 1995-42 (McCrery) (Jan. 11, 1996).

²⁶ Resp. at 3.

1 no reason to believe that Chaffetz violated 52 U.S.C. § 30114(b) or 11 C.F.R. § 113.1(g) by
2 converting Committee funds to personal use in connection with payments for childcare services.

3 **d. Lodging for Family Visits to Washington, D.C.**

4 The regulations identify “[m]ortgage, rent or utility payments” as *per se* personal use.²⁷

5 The Commission has stated that “[t]he personal use provisions of the Act and its corresponding
6 regulations thus make clear that the rental payments for *any part* of any personal residence
7 constitute *per se* personal use.” Chaffetz’s lack of a Washington, D.C., residence, coupled with
8 the documented hotel stays, raises the question of whether hotels function as a *de facto* personal
9 residence, and whether reimbursements for hotel stays should be considered as the functional
10 equivalent of rental payments under the regulations.

11 We recommend that the Commission not treat the hotel stays as *per se* personal use.

12 First, the regulation explicitly covers only mortgages, rental payments, and utility payments.

13 Even if the Commission were to take a functional approach, the record does not support the
14 inference that Chaffetz uses hotels as his personal residence. Both the Complaint and Response
15 indicate that Chaffetz does not use hotels as his residence; rather, he books those stays only
16 occasionally when his family is in Washington. According to the Complaint, Chaffetz received
17 reimbursement for 28 D.C. hotel stays covering the period from 2008 to 2016, or an average of
18 3.5 stays per year. While those stays cost \$15,854, that figure covers eight years, or a yearly
19 average of about \$2,000. The episodic nature of the hotel stays suggests that the hotels should
20 not be treated as a personal residence and a *per se* example of personal use.

²⁷ 11 C.F.R. § 113.1(g)(1)(i)(E).

1 If the hotel stays are not *per se* personal use, they may still constitute impermissible
2 personal travel expenses, which are analyzed on a case-by-case basis.²⁹ Travel expenses incurred
3 by a candidate's spouse or minor children do not constitute personal use if they are made in
4 connection with campaign-related events³⁰ or events arising out of official duties.³¹ Our
5 recommendation therefore requires an analysis of whether Chaffetz would have incurred the
6 relevant hotel expenses irrespective of his campaign or official duties.

7 The available record does not support the inference that Chaffetz would have incurred the
8 hotel expenses absent campaign or official duties. The Complaint's claim that the hotel stays are
9 personal in nature relies on a published quote from Chaffetz stating that when his family visits
10 Washington, they stay in a hotel. The quoted newspaper article also explains, however, that "if
11 the purpose of the visit is personal, [Chaffetz] pays out of pocket."³² Because we have no
12 information to suggest that the questioned hotel stays were not for a political or official purpose,
13 we recommend that the Commission find no reason to believe that Chaffetz violated
14 52 U.S.C. § 30114(b) or 11 C.F.R. § 113.1(g) by converting campaign funds to personal use
15 through his reimbursements for hotel stays.

²⁹ 11 C.F.R. § 113.1(g)(1)(ii)(C).

³⁰ See Advisory Op. 1996-34 (Thornberry) (Sept. 12, 1996).

³¹ See Advisory Op. 2005-09 (Dodd) (Aug. 19, 2005).

³² Compl. § 4; Canham, *supra* note 3; see also Resp. at 3 (stating that Chaffetz seeks reimbursement only if the hotel stays are for a campaign event).

1 **e. Use of Personal Credit Cards and Accrual of Sky Miles**

2 A committee may reimburse a candidate or other individual for campaign-related
3 expenses made with personal funds.³³ The regulations presume that committees reimburse
4 campaign-related expenses purchased with personal credit cards.³⁴ The *Congressional*
5 *Candidates and Committees Campaign Guide* likewise makes several references to campaign-
6 related expenses made with personal credit cards.³⁵ The fact that a personal credit card may
7 provide incidental benefits, such as airline miles, to the cardholder through a rewards program
8 does not contradict or undermine the Commission's approval of committee reimbursements for
9 campaign-related expenses that are paid for with a personal credit card.

10 Additionally, as noted above, the Commission defines personal use as "any use of *funds*
11 *in a campaign account* of a present or former candidate"³⁶ A credit-card reward program
12 does not convert existing funds that are in a campaign account. Instead, such reward programs
13 generate additional funds or other bonuses for the cardholder. We therefore recommend that the
14 Commission find no reason to believe that Chaffetz violated 52 U.S.C. § 30114(b) or
15 11 C.F.R. § 113.1(g) by converting campaign funds to personal use by accruing airline miles
16 through use of his personal credit card.

³³ See Advisory Op. 1996-20 (Lucas) (June 14, 1996) at note 3 and accompanying text.

³⁴ See 11 C.F.R. § 116.5 (noting that the "payment by an individual from his or her personal funds, including a personal credit card" for campaign expenses is considered a contribution).

³⁵ See *FEC Campaign Guide: Congressional Candidates and Committees* at 41, 100 (2014).

³⁶ 11 C.F.R. § 113.1(g) (emphasis added).

B. Unitemized Reimbursements

Political committees must itemize and report the name and address of each person to whom they make expenditures or other disbursements that aggregate more than \$200 per calendar year (for unauthorized committees) or per election cycle (for authorized committees).³⁷ Committees must report the date, amount, and purpose of each disbursement.³⁸ For reimbursements, the Commission requires "a memo entry identifying the ultimate payee . . . for any reimbursement of expenses (other than travel and subsistence expenses) if the individual's *payments to the vendor on behalf of the committee aggregate more than \$200 in a calendar year* (or election cycle for authorized committees)."³⁹

The Response claims that the Committee and the Leadership PAC itemize all reimbursements that exceed \$200 to a single vendor according to Commission guidelines. Though \$77,000—\$68,000 from the Committee and an additional \$9,000 from the Leadership PAC—is a significant total sum of unitemized reimbursements, those reimbursements were disbursed over a nine-year period. The record does not indicate that any reimbursements were for payments aggregating more than \$200 per vendor during the relevant periods.⁴⁰ Accordingly, we recommend that the Commission find no reason to believe that the Committee or Leadership

³⁷ 52 U.S.C. § 30104(b)(5)(A), 6(A); 11 C.F.R. § 104.3(b)(3)(i), (4)(i); 11 C.F.R. § 104.9(a).

³⁸ *Id.*

³⁹ *Interpretive Rule on Reporting Ultimate Payees of Political Committee Disbursements* (2013) (emphasis added).

⁴⁰ We confirmed with the Reports Analysis Division (RAD) that there was no basis to refer either the Committee or the Leadership PAC to the Office of the General Counsel or Alternative Dispute Resolution Office regarding their reporting of reimbursements on the relevant reports. The only report in which the reporting of reimbursements met the RAD threshold for sending a Request for Additional Information was the Committee's 2015 April Quarterly Report, and the Committee's amendment adequately addressed this issue.

1 PAC violated 52 U.S.C. § 30104(b)(5) or 11 C.F.R. § 104.3(b) by failing to itemize
2 reimbursements.

3 **C. Leadership PAC Expenditure to Rock Chalk Media LLC**

4 The Act defines a "contribution" as "any gift, subscription, loan, advance, or deposit of
5 money or anything of value made by any person for the purpose of influencing any election for
6 Federal Office."⁴¹ "Anything of value" includes all in-kind contributions, which are "any goods
7 or services [provided] without charge or at a charge that is less than the usual and normal charge
8 for such goods or services. . . ."⁴² "Federal Office" means "the office of President or Vice
9 President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the
10 Congress."⁴³ If a leadership PAC pays for costs that "could and should otherwise be paid for by
11 a candidate's authorized committee, such payments are in-kind contributions, subject to the Act's
12 contribution limits and reporting requirements."⁴⁴

13 Respondents assert that the \$1,690 expenditure made by the Leadership PAC was in
14 support of Chaffetz's candidacy for Speaker of the House. There is nothing in the Complaint or
15 the record which refutes this assertion. A bid for a leadership position such as Speaker of the
16 House is not considered an "election for Federal Office" under the Act. We therefore
17 recommend that the Commission find no reason to believe that that the Committee or Leadership

⁴¹ 52 U.S.C. § 30101(8)(A).

⁴² 11 C.F.R. § 100.52(d)(1).

⁴³ 52 U.S.C. § 30101(3).

⁴⁴ Final Rule and Explanation and Justification, Leadership PACs, 68 Fed. Reg. 67013, 67016 (Dec. 1, 2003);
see also MUR 6435 (Representative Charles B. Rangel, *et al.*); 52 U.S.C. § 30104(b) (reporting requirements).

PAC violated 52 U.S.C. § 30104(b) or 11 C.F.R. § 104.3 by failing to report the expenditure as a contribution to the Committee, or that Alex Chaffetz violated the Act or regulations.

D. Beehive Victory Fund

Beehive Victory Fund, which is registered as a joint fundraising committee for the Chaffetz Committee, is listed in the caption of the Complaint, but is not mentioned again in connection with any alleged violations. Because we have no information indicating that the organization committed any violation, we recommend that the Commission find no reason to believe that Beehive Victory Fund violated the Act or regulations.

IV. RECOMMENDATIONS

1. Dismiss with a cautionary letter the allegation that Jason Chaffetz violated 52 U.S.C. § 30114(b)(1) by using a Committee-owned vehicle for personal purposes.
2. Find no reason to believe Jason Chaffetz violated 52 U.S.C. § 30114(b)(1) in connection with the Committee's reimbursement of hotel expenses, childcare expenses, and personal credit charges relating to campaign activity.
3. Find no reason to believe that Friends of Jason Chaffetz or Bruce Garfield in his official capacity as treasurer violated 52 U.S.C. § 30104(b)(5)-(6), 11 C.F.R. § 104.3(b)(4)(i), or 11 C.F.R. § 104.9(a).
4. Find no reason to believe that Beehive PAC or Bruce Garfield in his official capacity as treasurer violated 52 U.S.C. § 30104(b)(5) or 11 C.F.R. § 104.3(b)(3)(i).
5. Find no reason to believe that Friends of Jason Chaffetz, Beehive PAC, or Bruce Garfield in his official capacity as treasurer of those committees violated 52 U.S.C. § 30104(b) or 11 C.F.R. § 104.3.
6. Find no reason to believe that Rock Chalk Media LLC or Alex Chaffetz violated the Act or regulations.
7. Find no reason to believe that Beehive Victory Fund and Bruce Garfield in his official capacity as treasurer violated the Act or regulations.
8. Approve the attached Factual and Legal Analysis.

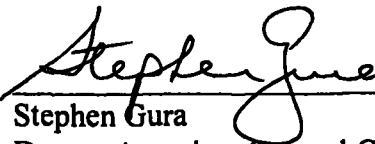
9. Approve the appropriate letters.


10. Close the file.

Lisa J. Stevenson
Acting General Counsel

Kathleen M. Guith
Acting Associate General Counsel
for Enforcement

Date: 11.7.16


Stephen Gura
Deputy Associate General Counsel
for Enforcement


Mark Shonkwiler
Assistant General Counsel


Antoinette Fuoto
Attorney

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 **RESPONDENT:** Jason Chaffetz MUR: 7057
4 Friends of Jason Chaffetz
5 Beehive PAC f/k/a Budgethawks.com
6 Beehive Victory Fund
7 Bruce Garfield in his official capacity as treasurer
8 Alex Chaffetz
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10 **I. INTRODUCTION**

11 The Complaint alleges that Representative Jason Chaffetz ("Chaffetz") violated the
12 Federal Election Act of 1971, as amended (the "Act") and Commission regulations by converting
13 campaign funds to personal use. The Complaint also alleges that Friends of Jason Chaffetz (the
14 "Committee") and Chaffetz's leadership PAC, Beehive PAC f/k/a Budgethawks.com (the
15 "Leadership PAC"), failed to itemize reimbursements made to Chaffetz and his wife, and that the
16 Committee failed to report an expenditure made by the Leadership PAC to a media group owned
17 and operated by Chaffetz's brother, Alex Chaffetz, as an in-kind contribution. Based on the
18 available information, the Commission dismisses with caution the allegations pertaining to
19 Chaffetz's use of a Committee-owned vehicle, and finds no reason to believe that Respondents
20 violated the Act in connection with the remaining allegations.

21 **II. FACTS**

22 Jason Chaffetz is the Representative of Utah's third congressional district. He has served
23 as a Member of the House of Representatives since 2008. The Complaint alleges that during that
24 time, Chaffetz and his wife impermissibly converted campaign funds to personal use by:

- 1 • Using a Committee-owned vehicle for personal use without reimbursing the
2 Committee.¹ In support, the Complaint cites a maintenance expense reported by the
3 Committee that aligned with an “official visit” to Arizona on March 20, 2013; a
4 reimbursement to Chaffetz for refueling the vehicle in a noted resort town in
5 California on January 5, 2012; and a newspaper article that questioned whether
6 Chaffetz used the vehicle for his regular 40-mile roundtrip commute between his
7 home and district office.²
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- 9 • Using campaign funds to host a Thanksgiving dinner at the St. Regis Hotel.³ The
10 Complaint claims that the Committee reported an expenditure to the hotel on
11 Thanksgiving Day 2014, and that Chaffetz posted a photo of a turkey in an oven that
12 appears similar to the ovens at the St. Regis.
13
- 14 • Receiving reimbursements for hotel and childcare costs incurred during family visits
15 to Washington, D.C.⁴
16
- 17 • Receiving Delta Sky Miles on Chaffetz’s personal credit card for purchases that were
18 later reimbursed by the Committee.⁵
19

20 The Response states that these expenses were related to campaign events or official business, and
21 denies any conversion of campaign funds to personal use.

22 The Complaint further claims that unitemized reimbursements to Chaffetz and his spouse
23 indicate reporting violations. It states that since 2007, the Committee has reimbursed \$470,000

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⁴ Chaffetz does not maintain a residence in Washington, D.C. As a result, when his family visits, they stay in a hotel. *Id.*; Canham, *supra* note 2. The Complaint alleges that Chaffetz received \$15,853.72 in hotel reimbursements between 2008 and 2016, and \$5,450 in child care reimbursements between 2009 and 2013. Compl. at § 4., Ex. B. Of the Complaint’s list of 28 hotel reimbursements, 14 have expired under the statute of limitations, representing charges totaling \$6,621.77.

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2 reimbursed \$43,000 to the Chaffetzes, \$9,000 of which was not itemized.⁶ The Response states
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4 Commission regulations, and that any unitemized reimbursements were below the threshold for
5 which itemization is required.⁷

6 Finally, the Complainant alleges that the Leadership PAC made an impermissible \$1,690
7 expenditure to Rock Chalk Media, an LLC owned by Alex Chaffetz, Jason Chaffetz's brother,
8 which the Committee failed to report as an in-kind contribution.⁸ The Response asserts that the
9 disbursement was for services associated with Chaffetz's October 2015 campaign for Speaker of
10 the House of Representatives, and did not constitute an in-kind contribution to the Chaffetz
11 Committee.⁹

12 III. LEGAL ANALYSIS

13 A. Personal Use

14 A candidate and his or her authorized committee may not convert campaign funds to the
15 personal use of the candidate or any other person.¹⁰ Commission regulations define personal use
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⁶ *Id.* at § 3.

⁷ Resp. at 2 (July 18, 2016).

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1 campaign or duties as a Federal officeholder.”¹¹ Several enumerated activities constitute
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3 consider, on a case-by-case basis, whether that expense would exist irrespective of a candidate’s
4 campaign or official duties.¹³ Certain expenses made in connection with official duties are not
5 considered personal use.¹⁴

6 **a. Use of a Committee Vehicle**

7 Vehicle expenses are analyzed on a case-by-case basis.¹⁵ Vehicle expenses that relate to
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9 vehicle is used for both campaign and official activities, as well as personal activities beyond *de*
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11 personal use unless the user reimburses the campaign within thirty days.¹⁷ A committee must
12 document personal use of a committee-owned vehicle. The Commission has stated that a
13 regularly updated mileage log would satisfy the regulations’ record-keeping requirements.¹⁸

¹¹ 11 C.F.R. § 113.1(g).

¹² 11 C.F.R. § 113.1(g)(1)(i).

¹³ 11 C.F.R. § 113.1(g)(1)(ii).

¹⁴ 11 C.F.R. § 113.1(g)(5).

¹⁵ 11 C.F.R. § 113.1(g)(1)(ii)(D).

¹⁶ *Id.*; see also Advisory Op. 2001-03 (Meeks) (March 12, 2001) (“AO 2001-03”) at note 5 (stating that an elected Member of Congress need not reimburse the Committee for vehicle use for “representational duties”).

¹⁷ 11 C.F.R. § 113.1(g)(1)(ii)(D); see also AO 2001-03 (noting that personal use of the committee vehicle amounting to 5% of total use would be *de minimis*, though not providing a bright line for *de minimis* use).

¹⁸ AO 2001-03 at 3; see also 11 C.F.R. § 104.14(b).

1 Respondents assert that the use of the vehicle in Arizona was for permissible campaign
2 and official purposes. They identify several campaign events that occurred during that trip, and
3 further contend that even if use of the vehicle were for official purposes, that would be
4 permissible under the Act and regulations.¹⁹ They allege that the record contains no facts that
5 suggest any instance of personal use during the Arizona trip. The Commission agrees.

6 However, Respondents do not address the Complainant's assertion that the California trip
7 was personal, or that Chaffetz used the Committee vehicle for his regular commute, beyond a
8 blanket denial of the Complaint's assertions. In the newspaper article cited by the Complaint,
9 Chaffetz responded to the allegation regarding his daily commute by stating, "I don't know if I
10 ever just drive to the office and not do something political along the way."²⁰ This statement
11 implies that Chaffetz used the campaign vehicle for daily commuting; thus, there is a basis on
12 which to infer that Chaffetz at least occasionally used the vehicle for personal purposes. The
13 record contains no information indicating whether Chaffetz maintains a log tracking any personal
14 use to record and provide reimbursement for any instance in which his personal use might
15 amount to more than *de minimis* activity. Even so, the Commission has no information
16 regarding any specific instances of non-*de minimis* personal use stemming from Chaffetz's daily
17 commute.

18 Likewise, the record is silent as to the nature of the California trip. The Complaint's
19 allegation is based on the lack of evidence of any official or campaign activity by Chaffetz in
20 California on those dates. The record, however, contains no information to establish that the trip

¹⁹ Resp. at 2.

²⁰ Compl. at § 2; Canham, *supra* note 2.

1 was exclusively personal. Given the vagueness of the evidence, the impending statute of
2 limitations as to some of the activity, and the possibility that any personal use may have been *de*
3 *minimis*, the Commission concludes that an investigation is not an efficient use of agency
4 resources. Accordingly, the Commission dismisses the allegation that Chaffetz violated
5 52 U.S.C. § 30114(b) or 11 C.F.R. § 113.1(g) by using a Committee-owned vehicle for personal
6 use, and issues a letter of caution regarding Chaffetz's apparent failure to maintain a mileage log
7 documenting personal use of the vehicle.²¹

8 **b. Payment to the St. Regis Hotel**

9 The Response explains that the expenditure to the St. Regis was not for a personal
10 purpose, but was prepayment for a Committee fundraiser. Moreover, the Response asserts that
11 Chaffetz was not even at the hotel over the Thanksgiving holiday.²² The Commission has no
12 information to the contrary. Accordingly, the Commission finds no reason to believe that
13 Chaffetz violated 52 U.S.C. § 30114(b) or 11 C.F.R. § 113.1(g) by converting Committee funds
14 to personal use regarding this payment.

15 **c. Child Care Costs**

16 Childcare expenses are evaluated on a case-by-case basis.²³ In Advisory Opinion
17 1995-42, the Commission clarified that when a candidate incurs childcare expenses as a direct
18 result of campaign activity, *i.e.*, when both the candidate and his or her spouse are needed at a

²¹ See *Heckler v. Chaney*, 470 U.S. 821 (1985); Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 51 (March 16, 2007) at 12546.

²² Resp. at 3.

²³ 11 C.F.R. § 113.1(g)(1)(ii).

1 campaign event, childcare costs will not be deemed personal use.²⁴ Respondents claim that the
2 Chaffetz seek reimbursement only when expenses are incurred for campaign purposes.²⁵ The
3 Commission lacks any information indicating otherwise, and therefore finds no reason to believe
4 that Chaffetz violated 52 U.S.C. § 30114(b) or 11 C.F.R. § 113.1(g) by converting Committee
5 funds to personal use in connection with payments for childcare services.

6 **d. Lodging for Family Visits to Washington, D.C.**

7 The regulations identify “[m]ortgage, rent or utility payments” for “*any part of any*
8 *personal residence* of the candidate or a member of the candidate’s family” as *per se* personal
9 use.²⁶ Chaffetz’s lack of a Washington, D.C., residence, coupled with the documented hotel
10 stays, raises the question of whether hotels function as a *de facto* personal residence, and whether
11 reimbursements for hotel stays should be considered as the functional equivalent of rental
12 payments under the regulations.

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²⁴ Advisory Op. 1995-42 (McCrery) (Jan. 11, 1996).

²⁵ Resp. at 3.

²⁶ 11 C.F.R. § 113.1(g)(1)(i)(E) (emphasis added).

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e. Use of Personal Credit Cards and Accrual of Sky Miles

A committee may reimburse a candidate or other individual for campaign-related expenses made with personal funds.³¹ The regulations presume that committees reimburse campaign-related expenses purchased with personal credit cards.³² The *Congressional Candidates and Committees Campaign Guide* likewise makes several references to campaign-related expenses made with personal credit cards.³³ The fact that a personal credit card may provide incidental benefits, such as airline miles, to the cardholder through a rewards program does not contradict or undermine the Commission's approval of committee reimbursements for campaign-related expenses that are paid for with a personal credit card.

Additionally, as noted above, the Commission defines personal use as "any use of *funds in a campaign account* of a present or former candidate"³⁴ A credit-card reward program does not convert existing funds that are in a campaign account. Instead, such reward programs generate additional funds or other bonuses for the cardholder. The Commission therefore finds no reason to believe that Chaffetz violated 52 U.S.C. § 30114(b) or 11 C.F.R. § 113.1(g) by converting campaign funds to personal use by accruing airline miles through use of his personal credit card.

³¹ See Advisory Op. 1996-20 (Lucas) (June 14, 1996) at note 3 and accompanying text.

³² See 11 C.F.R. § 116.5 (noting that the "payment by an individual from his or her personal funds, including a personal credit card" for campaign expenses is considered a contribution).

³³ See *FEC Campaign Guide: Congressional Candidates and Committees* at 41, 100 (2014).

³⁴ 11 C.F.R. § 113.1(g) (emphasis added).

B. Unitemized Reimbursements

Political committees must itemize and report the name and address of each person to whom they make expenditures or other disbursements that aggregate more than \$200 per calendar year (for unauthorized committees) or per election cycle (for authorized committees).³⁵ Committees must report the date, amount, and purpose of each disbursement.³⁶ For reimbursements, the Commission requires “a memo entry identifying the ultimate payee . . . for any reimbursement of expenses (other than travel and subsistence expenses) if the individual’s *payments to the vendor on behalf of the committee aggregate more than \$200 in a calendar year* (or election cycle for authorized committees).”³⁷

The Response claims that the Committee and the Leadership PAC itemize all reimbursements that exceed \$200 to a single vendor according to Commission guidelines. Though \$77,000—\$68,000 from the Committee and an additional \$9,000 from the Leadership PAC—is a significant total sum of unitemized reimbursements, those reimbursements were disbursed over a nine-year period. The record does not indicate that any reimbursements were for payments aggregating more than \$200 per vendor during the relevant periods. Accordingly, the Commission finds no reason to believe that the Committee or Leadership PAC violated 52 U.S.C. § 30104(b)(5) or 11 C.F.R. § 104.3(b) by failing to itemize reimbursements.

³⁵ 52 U.S.C. § 30104(b)(5)(A), 6(A); 11 C.F.R. § 104.3(b)(3)(i), (4)(i); 11 C.F.R. § 104.9(a).

³⁶ *Id.*

³⁷ *Interpretive Rule on Reporting Ultimate Payees of Political Committee Disbursements* (2013) (emphasis added).

C. Leadership PAC Expenditure to Rock Chalk Media LLC

The Act defines a “contribution” as “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal Office.”³⁸ “Anything of value” includes all in-kind contributions, which are “any goods or services [provided] without charge or at a charge that is less than the usual and normal charge for such goods or services. . . .”³⁹ “Federal Office” means “the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress.”⁴⁰ If a leadership PAC pays for costs that “could and should otherwise be paid for by a candidate’s authorized committee, such payments are in-kind contributions, subject to the Act’s contribution limits and reporting requirements.”⁴¹

Respondents assert that the \$1,690 expenditure made by the Leadership PAC was in support of Chaffetz’s candidacy for Speaker of the House. There is nothing in the Complaint or the record which refutes this assertion. A bid for a leadership position such as Speaker of the House is not considered an “election for Federal Office” under the Act. The Commission therefore finds no reason to believe that the Committee or Leadership PAC violated 52 U.S.C. § 30104(b) or 11 C.F.R. § 104.3 by failing to report the expenditure as a contribution to the Committee. The Commission further finds no reason to believe that Alex Chaffetz violated the Act or regulations.

³⁸ 52 U.S.C. § 30101(8)(A).

³⁹ 11 C.F.R. § 100.52(d)(1).

⁴⁰ 52 U.S.C. § 30101(3).

⁴¹ Final Rule and Explanation and Justification, Leadership PACs, 68 Fed. Reg. 67013, 67016 (Dec. 1, 2003); *see also* MUR 6435 (Representative Charles B. Rangel, *et al.*); 52 U.S.C. § 30104(b) (reporting requirements).

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1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 RESPONDENT: Jason Chaffetz MUR: 7057
4 Friends of Jason Chaffetz
5 Beehive PAC f/k/a Budgethawks.com
6 Beehive Victory Fund
7 Bruce Garfield in his official capacity as treasurer
8 Alex Chaffetz
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10 **I. INTRODUCTION**

11 The Complaint alleges that Representative Jason Chaffetz ("Chaffetz") violated the
12 Federal Election Act of 1971, as amended (the "Act") and Commission regulations by converting
13 campaign funds to personal use. The Complaint also alleges that Friends of Jason Chaffetz (the
14 "Committee") and Chaffetz's leadership PAC, Beehive PAC f/k/a Budgethawks.com (the
15 "Leadership PAC"), failed to itemize reimbursements made to Chaffetz and his wife, and that the
16 Committee failed to report an expenditure made by the Leadership PAC to a media group owned
17 and operated by Chaffetz's brother, Alex Chaffetz, as an in-kind contribution. Based on the
18 available information, the Commission dismisses the allegations pertaining to Chaffetz's use of a
19 Committee-owned vehicle, and finds no reason to believe that Respondents violated the Act in
20 connection with the remaining allegations.

21 **II. FACTS**

22 Jason Chaffetz is the Representative of Utah's third congressional district. He has served
23 as a Member of the House of Representatives since 2008. The Complaint alleges that during that
24 time, Chaffetz and his wife impermissibly converted campaign funds to personal use by:

- 1 • Using a Committee-owned vehicle for personal use without reimbursing the
2 Committee.¹ In support, the Complaint cites a maintenance expense reported by the
3 Committee that aligned with an “official visit” to Arizona on March 20, 2013; a
4 reimbursement to Chaffetz for refueling the vehicle in Laguna Beach, California on
5 January 5, 2012; and a newspaper article that questioned whether Chaffetz used the
6 vehicle to drive from his home to his campaign office.²
7
- 8 • Using campaign funds to host a Thanksgiving dinner at the St. Regis Hotel.³ The
9 Complaint claims that the Committee reported an expenditure to the hotel on
10 Thanksgiving Day 2014, and that Chaffetz posted a photo of a turkey in an oven that
11 appears similar to the ovens at the St. Regis.
12
- 13 • Receiving reimbursements for hotel and childcare costs incurred during family visits
14 to Washington, D.C.⁴
15
- 16 • Receiving Delta Sky Miles on Chaffetz’s personal credit card for purchases that were
17 later reimbursed by the Committee.⁵
18

19 The Response states that these expenses were related to campaign events or official business, and
20 denies any conversion of campaign funds to personal use.

21 The Complaint further claims that unitemized reimbursements to Chaffetz and his spouse
22 indicate reporting violations. It states that since 2007, the Committee has reimbursed \$470,000
23 to the Chaffetzes, \$68,000 of which was not itemized. Further, the Leadership PAC has

¹ Our review of Committee disclosure reports reveals that the Committee owns two vehicles, one labeled a “campaign trailer,” each purchased for approximately \$35,000. See Friends of Jason Chaffetz Pre-Convention Report (April 2010) (first Committee vehicle); Oct. Quarterly Report (Oct. 2011) (trailer).

² Compl. at § 2 (May 10, 2016); Matt Canham, *GOP challenger hits Jason Chaffetz on his campaign spending*, SALT LAKE TRIBUNE, April 14, 2016, available at <http://www.sltrib.com/news/3779575-155/gop-challenger-hits-jason-chaffetz-on>.

³ Compl. at § 4.

⁴ Chaffetz does not maintain a residence in Washington, D.C. As a result, when his family visits, they stay in a hotel. *Id.*; Canham, *supra* note 2. The Complaint alleges that Chaffetz received \$15,853.72 in hotel reimbursements between 2008 and 2016, and \$5,450 in child care reimbursements between 2009 and 2013. Compl. at § 4., Ex. B. Of the Complaint’s list of 28 hotel reimbursements, 14 have expired under the statute of limitations, representing charges totaling \$6,621.77.

⁵ Compl. at § 5.

1 reimbursed \$43,000 to the Chaffetzes, \$9,000 of which was not itemized.⁶ The Response states
2 that the Committee and Leadership PAC itemized reimbursements in accordance with
3 Commission regulations, and that any unitemized reimbursements were below the threshold for
4 which itemization is required.⁷

5 Finally, the Complainant alleges that the Leadership PAC made an impermissible \$1,690
6 expenditure to Rock Chalk Media, an LLC owned by Alex Chaffetz, Jason Chaffetz's brother,
7 which the Committee failed to report as an in-kind contribution.⁸ The Response asserts that the
8 disbursement was for services associated with Chaffetz's October 2015 campaign for Speaker of
9 the House of Representatives, and did not constitute an in-kind contribution to the Chaffetz
10 Committee.⁹

11 III. LEGAL ANALYSIS

12 A. Personal Use

13 A candidate and his or her authorized committee may not convert campaign funds to the
14 personal use of the candidate or any other person.¹⁰ Commission regulations define personal use
15 as "any use of funds in a campaign account of a present or former candidate to fulfill a
16 commitment, obligation or expense of any person that would exist irrespective of the candidate's
17 campaign or duties as a Federal officeholder."¹¹ Several enumerated activities constitute

⁶ *Id.* at § 3.

⁷ Resp. at 2 (July 18, 2016).

⁸ Compl. at § 1.

⁹ Resp. at 1.

¹⁰ 52 U.S.C. § 30114(b); 11 C.F.R. § 113.1(g).

¹¹ 11 C.F.R. § 113.1(g).

1 personal use *per se*.¹² If an expense is not listed as *per se* personal, the Commission must
2 consider, on a case-by-case basis, whether that expense would exist irrespective of a candidate's
3 campaign or official duties.¹³ Certain expenses made in connection with official duties are not
4 considered personal use.¹⁴

5 **a. Use of a Committee Vehicle**

6 Vehicle expenses are analyzed on a case-by-case basis.¹⁵ Vehicle expenses that relate to
7 a Federal officeholder's official activities are excluded from the definition of personal use.¹⁶ If a
8 vehicle is used for both campaign and official activities, as well as personal activities beyond *de*
9 *minimis* use, the portion of the vehicle expenses associated with personal activities is considered
10 personal use unless the user reimburses the campaign within thirty days.¹⁷ A committee must
11 document personal use of a committee-owned vehicle. The Commission has stated that a
12 regularly updated mileage log would satisfy the regulations' record-keeping requirements.¹⁸

13 Respondents assert that the use of the vehicle in Arizona was for permissible campaign
14 and official purposes. They identify several campaign events that occurred during that trip, and
15 further contend that even if use of the vehicle were for official purposes, that would be

¹² 11 C.F.R. § 113.1(g)(1)(i).

¹³ 11 C.F.R. § 113.1(g)(1)(ii).

¹⁴ 11 C.F.R. § 113.1(g)(5).

¹⁵ 11 C.F.R. § 113.1(g)(1)(ii)(D).

¹⁶ *Id.*; see also Advisory Op. 2001-03 (Meeks) (March 12, 2001) ("AO 2001-03") at note 5 (stating that an elected Member of Congress need not reimburse the Committee for vehicle use for "representational duties").

¹⁷ 11 C.F.R. § 113.1(g)(1)(ii)(D); see also AO 2001-03 (noting that personal use of the committee vehicle amounting to 5% of total use would be *de minimis*, though not providing a bright line for *de minimis* use).

¹⁸ AO 2001-03 at 3; see also 11 C.F.R. § 104.14(b).

1 permissible under the Act and regulations.¹⁹ They allege that the record contains no facts that
2 suggest any instance of personal use during the Arizona trip. The Commission agrees.

3 While Respondents do not specifically address the Complainant's assertion that Chaffetz
4 used the Committee vehicle for his regular commute, there is no information regarding any
5 specific instances of non-*de minimis* personal use of the vehicle. In the newspaper article cited
6 by the Complaint, Chaffetz responded to the allegation that he used a Committee vehicle to drive
7 from his home to his campaign office by stating, "I don't know if I ever just drive to the office
8 and not do something political along the way."²⁰ The alleged use of a campaign vehicle for
9 commuting may give rise to the possibility that the vehicle is also used at least occasionally for
10 personal purposes. The record contains no information indicating whether Chaffetz maintains a
11 log tracking any personal use to record and provide reimbursement for any instance in which his
12 personal use might amount to more than *de minimis* activity. Even so, the Commission has no
13 information regarding any specific instances of non-*de minimis* personal use stemming from
14 Chaffetz's alleged use of the vehicle to commute.

15 Likewise, the record is silent as to the nature of the California trip. The Complaint's
16 allegation is based on a perceived lack of evidence of other travel-related expenses by the
17 Committee in the same time period. The record, however, contains no information to establish
18 that the trip was personal. Given the vagueness of the evidence, the impending statute of
19 limitations as to some of the activity, and the possibility that any alleged personal use may have
20 been *de minimis*, the Commission concludes that pursuing this allegation is not an efficient use

¹⁹ Resp. at 2.

²⁰ Compl. at § 2; Canham, *supra* note 2.

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1 of agency resources. Accordingly, the Commission dismisses the allegation that Chaffetz
2 violated 52 U.S.C. § 30114(b) or 11 C.F.R. § 113.1(g) by using a Committee-owned vehicle for
3 personal use.²¹

4 **b. Payment to the St. Regis Hotel**

5 The Response explains that the expenditure to the St. Regis was not for a personal
6 purpose, but was prepayment for a Committee fundraiser. Moreover, the Response asserts that
7 Chaffetz was not even at the hotel over the Thanksgiving holiday.²² The Commission has no
8 information to the contrary. Accordingly, the Commission finds no reason to believe that
9 Chaffetz violated 52 U.S.C. § 30114(b) or 11 C.F.R. § 113.1(g) by converting Committee funds
10 to personal use regarding this payment.

11 **c. Child Care Costs**

12 Childcare expenses are evaluated on a case-by-case basis.²³ In Advisory Opinion
13 1995-42, the Commission clarified that when a candidate incurs childcare expenses as a direct
14 result of campaign activity, *i.e.*, when both the candidate and his or her spouse are needed at a
15 campaign event, childcare costs will not be deemed personal use.²⁴ Respondents claim that the
16 Chaffetzes seek reimbursement only when expenses are incurred for campaign purposes.²⁵ The
17 Commission lacks any information indicating otherwise, and therefore finds no reason to believe

²¹ See *Heckler v. Chaney*, 470 U.S. 821 (1985); Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 51 (March 16, 2007) at 12546.

²² Resp. at 3.

²³ 11 C.F.R. § 113.1(g)(1)(ii).

²⁴ Advisory Op. 1995-42 (McCrery) (Jan. 11, 1996).

²⁵ Resp. at 3.

1 that Chaffetz violated 52 U.S.C. § 30114(b) or 11 C.F.R. § 113.1(g) by converting Committee
2 funds to personal use in connection with payments for childcare services.

3 **d. Lodging for Family Visits to Washington, D.C.**

4 The regulations identify “[m]ortgage, rent or utility payments” for “*any part of any*
5 *personal residence* of the candidate or a member of the candidate’s family” as *per se* personal
6 use.²⁶ The Complaint does not allege that Chaffetz used hotels as his *de facto* personal
7 residence, or that payments for hotel stays should be considered the functional equivalent of
8 rental payments, and the record does not support an inference that he did so. Both the
9 Complaint and Response indicate that Chaffetz does not use hotels as his residence; rather, he
10 books those stays only occasionally when his family is in Washington. According to the
11 Complaint, Chaffetz received reimbursement for 28 D.C. hotel stays covering the period from
12 2008 to 2016, or an average of only 3.5 stays per year. The episodic nature of the hotel stays
13 suggests that the hotels were not used as a personal residence.

14 Nor does the record support the Complaint’s claim that the hotel stays constitute
15 impermissible personal travel expenses. The Commission reviews travel expenses a case-by-
16 case basis.²⁷ Expenses incurred for travel by a candidate’s spouse or minor children do not
17 constitute personal use if they are made in connection with campaign-related events²⁸ or events
18 arising out of official duties.²⁹

²⁶ 11 C.F.R. § 113.1(g)(1)(i)(E) (emphasis added).

²⁷ 11 C.F.R. § 113.1(g)(1)(ii)(C).

²⁸ See Advisory Op. 1996-34 (Thornberry) (Sept. 12, 1996).

²⁹ See Advisory Op. 2005-09 (Dodd) (Aug. 19, 2005).

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1 The Complaint's claim that the hotel stays are personal in nature relies on a published
2 quote from Chaffetz stating that when his family visits Washington, they stay in a hotel. The
3 quoted newspaper article also explains, however, that "if the purpose of the visit is personal,
4 [Chaffetz] pays out of pocket."³⁰ Because the record lacks information to suggest that the
5 questioned hotel stays were not for a campaign or official purpose, the Commission finds no
6 reason to believe that Chaffetz violated 52 U.S.C. § 30114(b) or 11 C.F.R. § 113.1(g) by
7 converting campaign funds to personal use through his reimbursements for hotel stays.

8 **e. Use of Personal Credit Cards and Accrual of Sky Miles**

9 A committee may reimburse a candidate or other individual for campaign-related
10 expenses made with personal funds.³¹ The regulations presume that committees reimburse
11 campaign-related expenses purchased with personal credit cards.³² The *Congressional*
12 *Candidates and Committees Campaign Guide* likewise makes several references to campaign-
13 related expenses made with personal credit cards.³³ The fact that a personal credit card may
14 provide incidental benefits, such as airline miles, to the cardholder through a rewards program
15 does not contradict or undermine the Commission's approval of committee reimbursements for
16 campaign-related expenses that are paid for with a personal credit card.

³⁰ Compl. § 4; Canham, *supra* note 2; see also Resp. at 3 (stating that Chaffetz seeks reimbursement only if the hotel stays are for a campaign event).

³¹ See Advisory Op. 1996-20 (Lucas) (June 14, 1996) at note 3 and accompanying text.

³² See 11 C.F.R. § 116.5 (noting that the "payment by an individual from his or her personal funds, including a personal credit card" for campaign expenses is considered a contribution).

³³ See *FEC Campaign Guide: Congressional Candidates and Committees* at 41, 100 (2014).

1 Additionally, as noted above, the Commission defines personal use as “any use of *funds*
2 *in a campaign account* of a present or former candidate”³⁴ A credit-card reward program
3 does not convert existing funds that are in a campaign account. Instead, such reward programs
4 generate additional funds or other bonuses for the cardholder. The Commission therefore finds
5 no reason to believe that Chaffetz violated 52 U.S.C. § 30114(b) or 11 C.F.R. § 113.1(g) by
6 converting campaign funds to personal use by accruing airline miles through use of his personal
7 credit card.

8 **B. Unitemized Reimbursements**

9 Political committees must itemize and report the name and address of each person to
10 whom they make expenditures or other disbursements that aggregate more than \$200 per
11 calendar year (for unauthorized committees) or per election cycle (for authorized committees).³⁵
12 Committees must report the date, amount, and purpose of each disbursement.³⁶ For
13 reimbursements, the Commission requires “a memo entry identifying the ultimate payee . . . for
14 any reimbursement of expenses (other than travel and subsistence expenses) if the individual’s
15 *payments to the vendor on behalf of the committee aggregate more than \$200 in a calendar year*
16 *(or election cycle for authorized committees).*”³⁷

17 The Response claims that the Committee and the Leadership PAC itemize all
18 reimbursements that exceed \$200 to a single vendor according to Commission guidelines. The

³⁴ 11 C.F.R. § 113.1(g) (emphasis added).

³⁵ 52 U.S.C. § 30104(b)(5)(A), 6(A); 11 C.F.R. § 104.3(b)(3)(i), (4)(i); 11 C.F.R. § 104.9(a).

³⁶ *Id.*

³⁷ *Interpretive Rule on Reporting Ultimate Payees of Political Committee Disbursements* (2013) (emphasis added).

1 record does not indicate that any reimbursements were for payments aggregating more than \$200
2 per vendor during the relevant periods. Accordingly, the Commission finds no reason to believe
3 that the Committee or Leadership PAC violated 52 U.S.C. § 30104(b)(5) or 11 C.F.R. § 104.3(b)
4 by failing to itemize reimbursements.

5 **C. Leadership PAC Expenditure to Rock Chalk Media LLC**

6 The Act defines a “contribution” as “any gift, subscription, loan, advance, or deposit of
7 money or anything of value made by any person for the purpose of influencing any election for
8 Federal Office.”³⁸ “Anything of value” includes all in-kind contributions, which are “any goods
9 or services [provided] without charge or at a charge that is less than the usual and normal charge
10 for such goods or services. . . .”³⁹ “Federal Office” means “the office of President or Vice
11 President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the
12 Congress.”⁴⁰ If a leadership PAC pays for costs that “could and should otherwise be paid for by
13 a candidate’s authorized committee, such payments are in-kind contributions, subject to the Act’s
14 contribution limits and reporting requirements.”⁴¹

³⁸ 52 U.S.C. § 30101(8)(A).

³⁹ 11 C.F.R. § 100.52(d)(1).

⁴⁰ 52 U.S.C. § 30101(3).

⁴¹ Final Rule and Explanation and Justification, Leadership PACs, 68 Fed. Reg. 67013, 67016 (Dec. 1, 2003);
see also MUR 6435 (Representative Charles B. Rangel, *et al.*); 52 U.S.C. § 30104(b) (reporting requirements).

1 Respondents assert that the \$1,690 expenditure made by the Leadership PAC was in
2 support of Chaffetz's candidacy for Speaker of the House. There is nothing in the Complaint or
3 the record which refutes this assertion. A bid for a leadership position such as Speaker of the
4 House is not considered an "election for Federal Office" under the Act. The Commission
5 therefore finds no reason to believe that the Committee or Leadership PAC violated
6 52 U.S.C. § 30104(b) or 11 C.F.R. § 104.3 by failing to report the expenditure as a contribution
7 to the Committee. The Commission further finds no reason to believe that Alex Chaffetz
8 violated the Act or regulations.

9 **D. Beehive Victory Fund**

10 Beehive Victory Fund, which is registered as a joint fundraising committee for the
11 Chaffetz Committee, is listed in the caption of the Complaint, but is not mentioned again in
12 connection with any alleged violations. Because the record lacks any information indicating that
13 the organization committed any violation, the Commission finds no reason to believe that
14 Beehive Victory Fund violated the Act or regulations.